

UNITED STATES DISTRICT COURT (Page 1)

MASSACHUSETTS DISTRICT

CASE/DOCKET # 04-10732 JLT

This is an "amendment" to be included in my attorney's Petition for a Federal Appeal & reasons given by my attorney's motion for Defendant To Be Present at Hearing.

Petition For A writ of Habeas Corpus, AD TESTIFICANDUM

① First of all, I am requesting my right for a Hearing, as this is a complex & very unusual case. I am requesting that both my attorney and myself be present for the hearing. I desperately need to be present in court for the following reasons:

- I) ① To speak up on my behalf before the judge(s) and supply crucial "Exculpatory Evidence" for my Federal Appeal, after being wrongfully denied my due process of law and Constitutional rights for so many years on the Mass. State Court level.
- II) ② To expound on & give testimony, facts & crucial medical records regarding my severe mental illness, which was wrongfully not even supplied by my Trial attorney (ineffective assistance of Counsel), nor was it even mentioned or supplied for my past SJC Appeal for a New Trial; or for This present Federal Appeal. It was never mentioned at all!
- ③ I have suffered severe debilitating mental illness all my life (both as a child & as an adult) for the last 50 years. I have also been in numerous psychiatric hospitals, day care centers, etc.-including Bridgewater State Hospital, where I am presently treated psychiatrically and where they are about to commit me again (I have been at Bridgewater State Hospital for severe mental problems ~~several~~ ^{many} times while in the D.O.C. prison system over the last 15 years).
- ④ All of the above imperative points ~~are~~ ^(#2-3) are crucial to the defense and was never mentioned to the jury at my criminal trial (which would have swayed the jury's decision in my favor as I talked "ragtime" (incoherent & not in my right frame of mind) during police's unlawful interrogation;

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against my will, without even an attorney present to assist me — and criminally being coerced without even proper authority to interrogate me, and while I was OFF my psychiatric medications due to severe physical side effects, etc. — I was in emotional shock.)!

⑤ Also, I did NOT give any "incriminating evidence" during my unlawful police interrogation or the criminal trial or at any other time. As stated previously, I was extremely physically & emotionally sick; and I trusted the police, but they violated my rights and twisted everything I said against me and in favor of the prosecution. I, throughout the whole court and trial process & for the last 15 years, have adamantly insisted on my innocence. My only fault was that I was extremely distraught & mentally ill during police's interrogation, especially due to the extreme anxiety I suffered over such a horrible, stressful situation. I was putty in the hands of ^{the} police!

⑥ I was wrongfully arrested & convicted on no tangible evidence ^{not} because I was guilty, but because I was extremely mentally ill and off my crucial medication; and because the police betrayed my confidence horribly to get an arrest and a conviction.

* (more info. will be supplied for the above statements, as well as all other following statements below, at the requested hearing)

⑦ The defendant is a 100% Vietnam Veteran, who suffers severe mental illness, including severe "PTSD" flashbacks from the service in Vietnam. I have been in & out of psychiatric hospitals. None of this was mentioned at any time — including the preliminary courts where I was arraigned & indicted, the criminal trial which was biased against me (due to false television & newspaper reportings, which swayed both the public & jurors, etc); as well as lying information supplied by my brother-in-law & his friends (to the news media), who

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are responsible for the double murders I was ~~wrongfully~~ wrongfully convicted of, and who wrongfully have custody of my young children (whom they are holding as pawns or "insurance" to keep me quiet about what I know, for the last 15 long & hard years). My brother-in-law ~~and his~~ friends criminally supplied not only the news media with false information, but they supplied the court lying & false info. ("Circumstantial" nonsense) to help get me convicted at the State Superior Court: false info. & lies that was supposed to be dismissed at the "Motions & Discovery" proceedings before the trial, according to my trial attorney.

⑧ Needless to say, my MENTAL ILLNESS is an extremely important issue that must be addressed finally, to make up for unfair and lost years within the legal & judicial system - and which is the MAIN REASON why I was wrongfully arrested, tried & convicted in the first place. The police betrayed my innocent & naive trust, as I had never had any problems with the police, legal & judicial authorities; and they took advantage of a pathetic, poor soul who was having a nervous breakdown during the police's unlawful interrogations.

⑨ There is a whole pile of many records on ^{my} many past psychiatric ~~records~~ ^{hospitalizations} over the last many years, that was never used and which must be presented to the court - finally!

III) ⑩ I was unlawfully denied my Constitutional right to speak up on my behalf to the jury during my criminal trial, which was a sham. I was unlawfully kept from addressing the court or being cross-examined in the witness stand. And my brother-in-law & his friends & family swayed, not only the news media, but they also swayed the judge, court & jury during my criminal trial. (more can be explained, along with evidence documents & witnesses'

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testimony, during a much-needed hearing in The Federal Court.

Also, a Detective Horsely, who was instrumental in getting me wrongfully arrested and who monitored the whole court/trial proceedings, also tampered with & supplied false evidence and even tampered with & swayed the jury's decision against me. At my unlawful police interrogation, he even lied & claimed he was an

attorney to represent me to get me to talk, which I adamantly refused but was coerced into doing so. I finally must be heard, after all these years, for the sake of Justice!

IV) (11) The defendant's Case depends in large part on his own Testimony, which was unlawfully denied me during the Criminal trial; against my will & wishes. My testimony was never heard due to unlawful & wrongful denial by my attorney, The Judge & The Court, etc. - improper actions of the Court & "ineffectual assistance" of defense Counsel, etc. - The jury was NEVER TOLD THE TRUTH OF WHAT HAPPENED, as I was denied my right to testify & explain the facts regarding the Case! I was unlawfully denied my right to take the witness stand.

V) (12) My Court-appointed attorney is unfamiliar with The Federal Appeals process (this is his first Federal Appeal - he did my SJC Appeal), and has left a lot of imperative info. & points out of his petition on The Federal Appeal; and has also downplayed or failed to mention Crucial matters which are exceedingly important for The Appeal - not only grounds for the Appeal (he's only mentioned 3 of many others), but also for The Motion for me (defendant) to be present at The Hearing. I feel that he has displayed "ineffectual assistance of Counsel," as he has not fully explained or given much more important reasons for my Federal Appeal, which I haven't fully explained because

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time doesn't allow me to go into specifics, as I have to be brief for this motion and can't go into details (but more info. Can be supplied by either my attorney or myself at the Hearing).

VI) (13) I was a state civil engineer, a graduate of Northeastern, who never even got a parking ticket before. I am a fully disabled Vietnam Veteran (D.A.V.); a highly decorated war veteran, and I was a highly regarded, up-standing member of my community who was involved in many volunteer & civic-community, charitable & goodwill activities. I have never had any problems or trouble with the law.

VII) (14) I desperately need to supply "Exculpatory Evidence" on behalf of my innocence for my Federal Appeal Hearing - including witnesses' testimony, notarized evidence documents, etc; a lot of new evidence, not previously seen before by the court or my Appeals attorney, etc. Most of it has never before been seen or shown, either at my Criminal Trial or since. This is mostly crucial & new evidence which must be realized.

VIII) (15) For many other reasons (besides the reasons mentioned above), justice would be better served if I was granted both a Hearing and to be Habled in^{Court} to be present, along with my attorney, so that my attorney (and myself, if given permission by the judge to approach the bench and speak on my behalf) can expound on very important issues which are relevant to the Federal Appeal, and which are NOT mentioned in either this motion or my attorney's already-submitted Federal Appeal. The lives & futures of an innocent man & his children depend on this!!!

(16) I desperately need to be present at a Hearing, along with my attorney, to assist Counsel (and to assist the Court, if granted, while I'm at the Hearing proceedings). As previously mentioned, the lives and futures of an innocent man and his children are at stake, after 15 long and hard years in the prison system!

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Sincerely,
~~presently~~ Michael Caputo (W-50194)
↳ % Bridgewater State Hospital
20 Administration Rd.
Bridgewater, Mass. 02324-3230
(508) 279-4500 (main number)
Docket # 04-10732 JLT

① Petition for A Federal Appeal (with legitimate reasons)
& ② MOTION FOR DEFENDENT TO BE PRESENT AT HEARING
to be amendent to my Court-appointed attorney's
Submitted Federal Appeals package.

Michael Caputo
April 13, 2004

Dear sir or madam;

Please excuse the delay in receiving the enclosed motion, as I was wrongfully locked up in segregation at Bridgewater State Hospital for weeks; and I am just about to send it out now, finally.

This enclosed motion is an ammendment to my attorney's already submitted Federal Appeal; and to be added to his pre-submitted Motions Concerning my Federal Appeal.

Thank you for your time and attention to this matter.

Sincerely,
Michael Caputo (W-50194)
Michael Caputo

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Re: Federal Appeal

May 1, 2004